

Kent State University’s Ohio Sales Tax Function

TABLE OF CONTENTS

PART I – INTRODUCTION TO OHIO SALES TAX.....	2
PART II - EXEMPTIONS	3-4
PART III – MIXED TRANSACTIONS	5
PART IV – SALES TAX PROCEDURE.....	5-6
PART V – MAINTENANCE OF RECORDS	6
PART VI – EXAMPLES OF TAXABLE SALES MADE BY KENT STATE UNIVERSITY.....	7

This document is expressly intended for the purposes of providing information on various tax matters encountered by Kent State University's staff, faculty, and students. This information contained within the website and on any attachments is provided only as a guide and is not intended as tax advice. Please consult the tax manager on matters that pertain to the University. We recommend that you seek professional tax advice from a qualified accountant or attorney for guidance on your specific tax obligations.

Part I – Introduction to Ohio Sales Tax

Kent State University is required to collect sales tax on all sales of tangible personal property (ORC §5739.03). Though there are many services that are subject to sales tax, any services rendered by KSU are exempt from sales tax as explained in Part II below.

The state sales and use tax rate is currently 5.5%. Counties and transit authorities can charge an additional 0.25% to 1.5% levy in quarter percent increments. The applicable sales tax rate is usually that of the location of the vendor.

Current sales tax rates can be found on the Ohio Department of Taxations' website (http://tax.ohio.gov/divisions/sales_and_use/rate_changes/index.stm).

Taxable sales generally include the following:

- Transactions in which title to tangible personal property is exchanged including repairs of tangible personal property (except tax-exempt personal property)
- Producing written or graphic matter

A sale may be exempt from tax based on either the identity of the purchaser or the property's type or use.

Sales that are exempt from sales tax based upon the type or use of the property include the following:

- Sales to Ohio or political subdivisions
- Sales to U.S. government and its agencies
- Sales to churches and certain non-profit organizations
- Sales for resale
- Carry-out food or food sold to students in a cafeteria or dormitory
- Production of magazines distributed as controlled circulation publications
- Manufacturing, processing, assembling, mining, refining, and reclamation
- Packaging materials and equipment
- Material used in graphic matter production
- Medical supplies and equipment
- Certain items used in retail sales
- Property used to fulfill a warranty, maintenance, or service contract
- Computers and related equipment purchased by Ohio elementary and secondary school teachers

Part II - Exemptions

Some of the more common exemptions encountered by KSU are discussed in this section.

Identify of the purchaser

Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions (ORC §5739.02(B)(1)). This is the exemption that allows Kent State University to make its' purchases without paying sales tax. This exemption applies even if the item is given to an employee as compensation. However, if the employee has to pay for any portion of the item, sales tax will be due on the portion he or she pays.

Sales of tangible personal property or services to churches, IRC section 501(c)(3) organizations, and to any other nonprofit organizations operated exclusively for charitable purposes in this state.

Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities (ORC §5739.02(B)(22)).

Sale of Food

The sale of food is exempt if it is to be consumed off the premises where sold (ORC §5739.02(B)(2)). Food sold on campus will be taxable unless the customer indicates that it is "to go." Bottled water, distilled water, mineral water, ice and carbonated water sold for ingestion by humans are considered food. Milk or milk products are also considered food.

Food never includes alcoholic beverages, dietary supplements, soft drinks, or tobacco. Generally, food is consumed in any form (liquid, concentrated, solid, frozen, dried, or dehydrated) for its nutritional value or taste. The term "soft drinks" includes any non-alcoholic beverage that contains natural or artificial sweeteners. Soft drink does not include any beverage that contains milk products or more than fifty per cent vegetable or fruit juice by volume.

Traditional soft drinks (i.e. Coca Cola and other carbonated beverages), bottled tea, fruit drinks or punches with less than fifty percent juice, are taxable unless they are sold to a purchaser that is exempt from tax (see above "identity of the purchaser"). Coffee drinks that contain sweeteners will be taxable unless they also contain milk or milk substitutes.

Sales of food and non-separately stated charges for the use of a room while consuming the food is taxable when sold to the general public. This would include any ancillary charges and charges for the use of chairs, tables, computers, audio-video equipment, and food.

Sale of Food to Students by Public, Private, and Parochial Schools, Colleges, and Universities

Sale of food to students in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college or university is within the exemption included in the ORC 5739.02(B)(3). As discussed above on the sale of food, soft drinks, fruit drinks, sweetened teas, and sweetened coffee drinks without milk will be taxable regardless of whether this exemption applies.

Resale

Any property or services that are resold in the same form that they are received by the vendor are exempt from tax upon their purchase. This provision avoids the possibility of a double taxation being placed upon the property or benefit.

Manufacturing

Property primarily used in the production of tangible personal property for sale is exempt from taxes. Manufacturing that is contracted out in accordance with the specific designs in place is also subject to exemption.

Packing Materials and Equipment

Exemption is granted for persons involved in the following activities:

- Making retail sales
- Mining
- Manufacturing
- Processing
- Assembly
- Refining
- Production of crude oil and natural gas
- Farming
- Agriculture
- Horticulture
- Floriculture
- Rendering a public utility service

Packages used for packing tangible personal property for sale are exempt from taxes. The package must “restrain movement of the enclosed contents in more than one plane of direction.” Packages include bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers. Also included are pallets, stretch wrap, and shrink-wrap.

Any equipment that actually places the item in the package or plays an integral part of the packaging process is exempt from taxes.

Medical Equipment

Primary exemptions for medical supplies are listed in ORC §5739.02(B)(18) and (19). The following properties are exempt when the enumerated circumstances set forth in such sections are present:

- Prescription drugs
- Insulin
- Urine and blood testing materials
- Hypodermic syringes and needles
- Hospital beds
- Oxygen and oxygen dispensing equipment
- Prosthetic devices
- Braces and other supporting devices
- Wheelchairs and devices used to lift them into motor vehicles
- Crutches and other devices to aid human perambulation
- Devices used to supplement impaired functions of the human body such as respiration, hearing, or elimination

Part III - Mixed Transactions: Personal and Professional Services in Conjunction with Transfer of Property

ORC §5739.01(B)(5) exempts professional, insurance, or personal services transactions if the tangible personal property sold in connection therewith is inconsequential and no separate charge is made therefore. A service would be taxable if it is part of a transaction involving a transfer of tangible personal property that is a consequential element of the service and the service-provider does not make a separate charge for the property.

When a transaction involves services and tangible personal property, the “true object test” is used to determine the taxability of the transaction. The true object test looks at whether the buyer was interested in “the product of the service, not the service itself.” If the buyer is interested in the product of the service, the entire transaction is taxable even if the service is separately stated from the material. Production or fabrication of tangible personal property is taxable regardless of who provides the material (Ohio Admin. Rule 5703-9-20).

There are times when separately stating a service and tangible personal property can be beneficial. One example is when computer software is purchased with training on how to use the product. If the training is separately stated, the service of training will not be taxable even though the computer software is taxable. If the training is not separately stated, the training will be subject to tax. Whether

separately stating will reduce the tax liability is dependent on the facts and circumstances of the transaction. For further guidance on specific transactions, please contact the tax manager.

Part IV – Sales Tax Procedure

Any vendor engaging in sales at a fixed place of business that is subject to the Sales Tax must obtain a license. This license can be obtained by sending in the ST-1 application to the county auditor. Although issued by the county, the license is valid for all sales throughout the state. If the applicant for a vendor license also has a Liquor Permit from the Ohio Department of Liquor Control, all information on the licenses must match accordingly. The cost of the license is \$25. This license is to be kept in the place of business at all times.

A vendor must collect tax unless the purchaser shows a tax-exempt certificate. A certificate is not needed for an item that is always tax-exempt. A tax-exempt certificate must be presented by a charitable organization since not all of their purchases are tax-exempt. Sales tax on titled motor vehicles is collected by the Bureau of Motor Vehicles and not by KSU.

The taxpayer has the right to obtain additional documentation to support any transaction not covered by a proper exemption certificate. This is known as a Notice of Intent to Levy.

Tax must be collected on the price of the item sold (ORC §5739.02). Price is defined as “the aggregate value in money of anything paid or delivered, or promised to be delivered, in the complete performance of the sale.” Charges for delivery, including preparation, transportation, shipping, postage, handling, crating, and packing are taxable.

Price discounts (cash and term) and vendor coupons reduce the taxable amount when the discount is allowed at the time of sale. The price is never reduced by manufacturer’s coupons or rebates.

The vendor has the duty to collect the tax and the consumer has the duty to pay the tax. Payment on or before the filing due date entitles the vendor to a 0.75% discount. When a vendor is assessed with failure to collect tax, it may seek reimbursement from the consumer (ORC §5739.13).

Part V - Maintenance of Records

All sales in Ohio are presumed to subject to tax. Because of this, the burden of proof of a tax-exempt sale resides with the vendor. The complete and accurate records of the vendor must include primary and secondary records. Primary records include purchase invoices, bills of lading, sales invoices, guest checks,

exemption certificates, tax payment receipts, and cash register tapes. Secondary records include bank deposit receipts, daybooks, journals, and any other records in which cumulative data is recorded. Sales invoices and cash register tapes must separately state the total price and tax amount charged. These amounts are to be accumulated and put in secondary records. All records must be kept for a period of four years.

Part VI – Examples of Taxable Sales made by Kent State University

The following is a list (not inclusive) of items that typically require KSU to charge and collect the sales tax if the purchaser **is not** a KSU department and **does not** provide an exemption certificate:

Books and magazines– including text books	Clothing – Kent State clothing and apparel – shirts, hats, shorts, gloves
CD/DVD's/USB drives	Photocopies
Class supplies (pens, pencils)	Gift shop sales
Posters and banners	Coffee mugs, key chains,
Computers and monitors sold to students and public	Computer software sold to students and public
Food consumed “on premises” (not carry out) sold to non students	Soft drinks, sweetened tea, juice drinks containing less than 50% juice
Catering: rental of chairs, tables, dishware, stemware, silverware, napkins, tablecloths, silk flowers, and the total charged if there is food consumed at any KSU location	Tobacco and alcoholic beverages (beer, wine, mixed beverages)
Equipment rental	Tape, CD, DVD rental
Non prescription drugs	Vitamins
Fuel and oil	Sweetened coffee without milk
Artwork	Jewelry
Photographs and videos including developing negatives or mounting charges	Sales of taxable tangible property to employees
Blueprints	Pre-paid telephone cards
Surplus sales other than titled motor vehicles (unless shipped out of state)	